

The Convention *of* 1835

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The Convention which met in Raleigh, June 4, 1835, was one of the "Great Events in the History of North Carolina." It was the result of a long, sectional controversy which had divided the people of the State for more than fifty years, growing out of the Constitution of 1776.

At the Provincial Congress of April, 1776, the question of forming a Constitution was considered and a committee was appointed to draft one, but the delegates could not agree on a plan and the matter was postponed until the next session. The next Congress met, at Halifax, in November, 1776, and the delegates to it were elected with special reference to the adoption of a Constitution. In some of the counties full instructions were drawn up and given by the people to their delegates in respect to those particular points on which they were to insist in the formation of the Constitution. William Hooper, a delegate to the Continental Congress, addressed a letter to the Convention giving his opinion, in regard to the proposed Constitution. Among other things he strongly urged that the Legislature should be composed of two branches, saying: "A single branch of legislation is a many-headed monster which, without any check, must soon defeat the very purpose for which it was created, and its members become a tyranny, dreadful in proportion to the numbers which compose it." At the opening of the Congress, November 12, 1776, a committee, composed of the ablest men in the body, was appointed to report a "Bill of Rights" and "Constitution or

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Form of Government." When this report came in it was "debated, amended," passed its several readings and adopted on its third reading.¹ It would be interesting to read the discussions of the delegates, some of whose letters and other writings have been preserved, that we might see what their views were in regard to the making of a written Constitution.² The vote by which the report of the committee, with the amendments thereto, was adopted, is not given in the Journal of the Congress, but it is certain that there were wide divergencies of opinion among the delegates upon the most important phases of their work. While in its general provisions the Constitution is a model in style, clearness and adaptability to the conditions existing, like all things human, it was, in some respects, imperfect. It is probable, however, that but few changes would have been made for many years, but for the basis upon which representation in the Legislature was fixed. The Constitution as adopted, allowed each county one senator and two members of the House of Commons. The State at that time was divided into thirty-five counties, twenty-nine of which were east of the present capital. Six borough towns were permitted to send one representative each to the House of Commons, and this privilege was afterwards [1789] extended to Fayetteville. It was based upon the theory that by reason of the trade and commerce in which they were engaged these towns had interests peculiar to themselves which entitled them to representation. The qualifications of a senator differed from those of a member of the House of Commons only in regard to the number of acres of land which he was required to own. Both were to be freeholders. An elector was required to be a freeholder in order to vote for a senator, while to be a freeman, if his taxes were

¹Colonial Records of North Carolina, X 974.

²Much light is thrown on the subject in McRee's "The Life and Correspondence of James Iredell".

paid, entitled him to a vote for a commoner. It was provided that the Legislature should consist of two branches, but there is nothing in the Constitution suggesting that representation in the Senate was based upon wealth, and in the House of Commons upon population. It is probable that it was deemed wise, in the conditions then existing, to make only such changes as were necessary to organize the State government. While the statesmen of that time were laying the foundations of States, based upon the sovereignty of the people instead of the Crown, they wisely avoided making radical changes in matters of administration. They were State-builders rather than scholastic theorists discussing abstract "rights of man," and were not seeking to cut loose from, but rather to build upon the experience and lessons of the past. They were familiar with the principles of English Constitutional liberty and the rights secured by Magna Carta, and other guarantees of liberty, including the common law. It was because these rights and liberties guaranteed in their charter had been denied to them, that they separated from the Mother Country. The "Bill of Rights" and "Form of Government" were not adopted hastily or without consideration.

So soon as the War for Independence was over and the State began to increase in population, friction arose between the larger counties which were being formed in the central and western parts of the State and the smaller counties in the east. As population moved westward there was a demand for the formation of new counties in the west which was met by a counter demand for a corresponding increase in the east, without, however, there being any such increase in population. The East, upon the basis of county representation, held controlling power in the Legislature and refused to permit any amendment to the Constitution. The question, originally one of political power, soon became, because of increased interest in improved modes of transportation and other internal

improvements, one of industrial and commercial importance. The East, content with its waterways, slave labor, and the produce of its rich soil, cleared into large plantations, opposed State aid to schemes for internal improvements. Judge Murphey originated a movement for improved methods of transportation, "by deepening the inlets from the ocean, opening the rivers for navigation, connecting them by canals, and constructing turnpikes or macadamized roads, so as to concentrate all the trade at two or three points within the limits of the State." The plans of this wise, far-seeing statesman and of those coöperating with him, were changed and given a new impulse by the invention and introduction of the locomotive engine and railroad for transportation and travel. Other States embarked in the construction of canals, and the building of railroads, whereas North Carolina, with no large cities, no canals or other modes of transportation, and no manufactories, made but little progress in industry, wealth or population.

It is not difficult to see that these conditions not only intensified the complaints of the West, regarding the distribution of power, but created a positive antagonism of interest between the two sections. For many years the East successfully resisted every demand for a change in the Constitution, or compliance with the demands of the West for internal improvements, which became more pronounced each year. In 1821 resolutions were introduced in the House of Commons by Charles Fisher, of Salisbury, declaring "that the representation of the people of this State, in both branches of the Legislature, under the Constitution, was greatly unequal, unjust and anti-republican; that the Constitution ought to be so amended that each citizen should have an equal share in the right of representation upon the principle of free white population; that a Convention, therefore, should be called to amend the Constitution." The debate on the resolutions clearly

marked the line of division. It was ably conducted and at times aroused much bitterness of feeling. The western members showed that thirty-three counties, containing one-third of the free white population, sent ninety-nine members, being a majority in each branch of the General Assembly; thus one-third of the white population controlled the law-making department, and, as the Constitution then provided, elected the Governor and other executive and the judicial officers. If the representation had been based upon population Rowan County would have been entitled to send *nine*, and Orange *seven* members, whereas they sent only six, two senators and four representatives. Six eastern counties, with about the same population, sent eighteen members. Twelve eastern counties, with a population of 38,037, sent as many members as the same number of western counties, containing 156,726. The State, at that time, contained sixty-two counties.³ The resolutions were defeated in the House by a vote of 81 to 47, while in the Senate they were rejected, without discussion, by 36 to 23. Meetings were held by the western people, "addresses" were sent out, and continued agitation kept up for a Convention. At the session of 1831 resolutions were introduced by Mr. Whitaker, of Macon, calling a Convention for the purpose of amending the Constitution, and after a full discussion were defeated by a vote of 69 to 56. It is not difficult to see that, in a government based upon the consent of the people, discord and dissension would continue until some change was made. The State government was developing into an aristocracy based upon county representation without regard to the right of the majority of the people to make the laws under which they lived.

In 1831 the State Capitol was burned. The question of rebuilding was complicated by a movement to make Fayetteville the capital. Of course the old controversy in regard to

³ Debates of 1821.

amending the Constitution came to the front and entered into the discussion. The people of the State were divided in sentiment, mainly along sectional lines, involving sectional feelings and interests. The divisions, and their combinations are thus set forth in a letter from a member of the General Assembly:

"We are distracted—rent asunder, by factions, and the result of the legislative discussions and dissensions will be (I fear) that we shall separate in anger, after having proved most unprofitable servants. There are five parties here. The largest—but it does not quite constitute a majority—is for rebuilding the capitol and is opposed to a Convention in every form. This may be termed the Eastern party. The next, in point of magnitude, is the Western party—they want a reconstruction of our Constitution with respect to political power and want no more, but will either keep the government at Raleigh or remove it to Fayetteville, as the one or the other will favor their great end. The third, in point of size, is the Fayetteville party; their main object is removal—but they are willing, also, to go for a general Convention. The two others are of about the same magnitude—the Northwestern and Southwestern parties. The former want a modification of the Constitution, but are utterly opposed to a removal, and the latter want a removal, but resist alterations of the Constitution."

The outcome of this somewhat complicated condition was the rebuilding of the capitol at Raleigh, followed at the session of 1834, after an unsuccessful effort to make amendments to the Constitution by submitting them directly to the people, by the passage of an act submitting to the people the question of calling a Convention.

The act provided that, if a majority of the votes cast were for "Convention," elections were to be held in the several counties for the election of delegates, each county sending

two. The act further provided that only such amendments (as were named therein should be submitted. The Convention was *directed* to form and submit an amendment providing for the election of not less than thirty-four, nor more than fifty senators, to be elected by districts, which were to be established on the basis of the amount of taxes paid into the public treasury; and not less than ninety nor more than one hundred and twenty members of the House of Commons distributed among the counties on the basis of the "Federal population," *i. e.*, of all free men and three-fifths "of all other persons," excluding Indians, not taxed. Each county, however, was to have at least one member. This basis of representation was adopted by the General Assembly as a compromise. At that time the State contained sixty-five counties and seven borough towns, making the total number of senators and members of the House two hundred and two. The Assembly met annually. Other amendments, in the discretion of the Convention, might be submitted. The most important of these were: whether borough representation should be abolished, or restricted; whether the right of free negroes to vote should be abolished or restricted; whether the Governor should be elected by the people and for what term; whether there should be biennial sessions of the General Assembly; whether the capitation tax on free whites and slaves should be equal throughout the State; whether the salaries of Judges should be decreased during the term for which they had been elected, and whether they should be eligible to any other position while retaining their judicial office, except the Supreme Court Bench; whether, in the election of officers, members of the Legislature should vote *viva voce*; and finally, whether the 32d Article should be amended. Each delegate was required to take an oath, prescribed by the act, to observe these limitations.

The proposition to call a Convention was approved by a

vote of about 27,000 out of 49,224. This, according to Governor David L. Swain, was, with one exception (the election of 1828), the largest vote cast at any election in this State. He also stated that he did not think that the population of the State had increased between 1830 and 1835 so much as three per cent, and was not sure that it had increased at all. As a general rule the counties sent as delegates their ablest and most experienced citizens. Warren sent Nathaniel Macon, who, after a long and distinguished service in both branches of the National Congress, had voluntarily resigned in 1828, and retired to private life. His associate was Weldon N. Edwards. From Buncombe came Governor Swain; from Burke, Burgess S. Gaither and Samuel P. Carson; from Caswell, Calvin Graves; from Cumberland, Judge John D. Toomer; from Granville, R. B. Gilliam and Josiah Crudup; from Guilford, John M. Morehead; from Lincoln, Bartlett Shipp; from Richmond, Alfred Dockery; from Rockingham, E. T. Broadnax; from Rowan, Charles Fisher; from Wake, Judge Henry Seawell; from Wilkes, James Wellborn and Edmund Jones; from Craven, Judge William Gaston and Richard D. Spaight; from Greene, Jesse Speight; from New Hanover, Owen Holmes; from Washington, Josiah Collins; from Sampson, W. B. Meares; from Martin, Asa Biggs; from Edgecombe, Louis D. Wilson; from Halifax, Governor John Branch and Judge Joseph J. Daniel; from Perquimans, Jesse Wilson; from Pasquotank, John L. Bailey; from Chatham, Hugh McQueen; from Chowan, J. B. Skinner; from Bertie, David Outlaw; from Hertford, Kenneth Rayner; from Cartaret, James W. Bryan; from Cabarrus, Daniel M. Barringer; and from Lenoir, Council Wooten.

These citizens had won at that time, or thereafter won distinction in the service of the State and Nation. They and their colleagues constituted a strong, patriotic body of men, who recognized the importance of the work to which they

were appointed, and approached it with a determination to remove from the Constitution the source of discord and dissension. Macon was unanimously elected President; E. B. Freeman, Principal Clerk, and Messrs. Gales and Son, Printers. The question was raised regarding the power of the Legislature to impose limitations upon the delegates representing the people, or to prescribe a form of oath to be taken by them. This objection was disposed of by the pertinent suggestion that the people had, by adopting the act as their own, themselves prescribed the limits within which the delegates were to submit amendments. The Convention decided to discuss proposed amendments in Committee of the Whole before final adoption. It is impracticable, within the limits of this paper, to give more than the outlines of the debates on the most important amendments.

The first question discussed was a proposition to abolish borough representation. The debate took a wide range and gave indications of the views of the delegates upon other questions which were to engage the attention of the Convention. Judge Gaston favored retaining the right of the borough towns to send representatives, and gave an interesting account of the origin of the right, and the reasons upon which it was based. Mr. Smith, of Orange, opposed retaining them, as did Mr. Fisher and several others representing counties which contained borough towns. A number of delegates took part in the debate. Governor Swain, although from the extreme west, from which there were no such representatives, noticed that the votes of the borough members had joined with the West in calling the Convention. He said: "The united vote of the borough members was the *fiat* which called this Convention into existence, and their constituents were the only aggregate portions of eastern communities that sustained the measure. Are they to be immolated upon the Altar of their own patriotism?" In this speech Governor

Swain outlined the policy of the western people. Internal improvements, education, general progress in the development of the resources of the State, and encouragement to immigration were the purposes of this strong, patriotic leader from the mountains. His speech drew fire from Mr. Macon, and the lines were soon drawn. Mr. Macon said that he could go hand in hand with the gentleman from Buncombe as regarded education, but he differed with him in his notions about internal improvements. He doubted the capacity of North Carolina to become a great commercial State, but they could diffuse the blessings of education and become a virtuous if not a great people. The opponents of borough representation were in the majority, and passed the amendment abolishing it. As the principle of representation based upon population was to be engrafted into our Constitution, the action of the Convention was logical and doubtless wise. To have retained it would have been a source of dissension outweighing its advantages.⁴

The Convention next discussed the proposition to deprive "free persons of color" of the privilege of voting. Judge Daniel favored giving to each of them the right to vote for members of the House of Commons provided he owned a freehold estate of \$250. In an interesting speech he traced the origin of the privilege which they had enjoyed, which he thought was useful to them as a means of protection and a stimulant to good behaviour, because it gave them a status which appealed to their pride and manhood. He did not think that the right to vote was secured in the Bill of Rights. That embraced only free white men. He had observed that they uniformly voted for men to represent them of the best character and talents. Mr. Macon was utterly opposed to any free person of color having the right to vote. He did not

⁴Nash: "The Borough Towns of North Carolina," in THE NORTH CAROLINA BOOKLET. Vol. VI. No. 2.

think they ever had such right under the Constitution of 1776. Mr. Crudup, a man of great wisdom and large views, wished to see these people raised from their present degradation, but did not think giving them the right of suffrage would do so. His remarks upon this, and other subjects before the Convention, were conservative and well considered. Mr. Gaston did not think it wise to make any change in the Constitution in respect to these "unfortunate people." If they had not enjoyed this privilege they would not at that time aspire to it. "The hardship," he said, "lay in depriving them of what they had been in the enjoyment of. * * * Let them know that they are a part of the body politic, and they will feel an attachment to the form of government and have a fixed interest in the prosperity of the community, and will exert an important influence over the slaves." Mr. Wilson, of Perquimans, did not believe "free blacks qualified to vote." He gave expression to the opinion then held by many Southern men. He said that he had heard almost everybody saying that slavery was a great evil. He believed it was no such thing, but thought it a great blessing to the South. Our system of agriculture could not be carried on in the Southern States without it. The Southern people might as well attempt to build a railroad to the moon as to cultivate their swamp lands without slaves. It is interesting to note that Mr. Wilson thought there were, at that time, about five hundred and seventy-five "free persons of color" voting in Halifax and several neighboring counties. He feared that "if we foster and raise them up they will soon become a majority and we shall have negro justices, negro sheriffs," and other negro officials. The western men took no part in the discussion, leaving the question to be settled by the eastern delegates, and the amendment depriving negroes of the privilege of voting was adopted. Branch, Daniel, Gaston, Rayner, Toomer, Holmes, Seawell from the East, and Swain, Carson,

Morehead with others from the West, voted in the negative. How little the wisest know of the operations of the industrial, political and social forces, and what disturbances they work in the "nice adjustments" of human governments.

Having disposed of these "side issues," the Convention grappled with the paramount issue, the question which had disturbed the peace and retarded the growth of the State for more than a generation. The proposition submitted to the Convention was that the Senate be composed of fifty members. This was easily decided in the affirmative with but little debate.

The next proposition, that the House of Commons be composed of one hundred and twenty members, met with opposition from Mr. Speight, of Greene, who saw in this number a majority from the West with internal improvements, railroads, and all manner of evils for the East. He was of the opinion that to make a railroad from Beaufort to the mountains would be incurring an expense which could never be repaid by the intercourse between these distant portions of the country.

Mr. Wilson, of Perquimans, also opposed any change in the Constitution which would give power to the West to impose upon the East taxes for internal improvements, saying: "But what benefit would accrue to the West? Very little; for nine-tenths of their lands are exhausted, and not worth cultivating, contrasted with hundreds and thousands of acres annually brought into market in the Southwestern States. None complain so much of the want of a market as those who have little or nothing to carry to it."

Mr. Macon was opposed to any plan of internal improvements in which the government was to take any part. All improvements of this kind, he said, ought to be the work of individuals as they could always have it done at cheaper rates than the government.

In response to the arguments of Governor Swain, Messrs. Fisher, Wellborn, Morehead, Carson and others, Mr. Speight said that he need not assure the committee that he was the friend of internal improvements, such as would afford a facility to the farmers of our country in getting to market; but he equally deprecated those wild and visionary schemes on which the demagogue always mounts to power. "The gentlemen talk about a railroad from the seaboard to the mountains. Why, sir, such a scheme is not only idle and visionary, but perfectly impossible." To convince the Convention that he favored internal improvements, Mr. Speight assured the delegates that, if he ever had the honor to be again a member of the Legislature he would "bring forward a plan, and the only one which can improve our condition, viz: a railroad from Beaufort to New Bern, and one from Fayetteville to some central point in the West."

Judge Gaston discussed the question in all its aspects, in a spirit of moderation, with thoroughness and convincing argument. He favored the number of senators and members agreed upon by the report of the committees. Among other things he said, "It should be borne in mind that governments are formed for practical purposes, and not to present themes for the exercise of schoolmen and declaimers." Conceding that the West had cause for complaint, and combatting the conservatism of the extreme eastern men, he said: "The principle which the gentleman from Greene professes, that of equal representation by counties, is supported by no reason whatever—is upheld by nothing but existing usage—stands condemned by the people and has had its day." He showed by calculations made by himself, the original of which are before the writer, that by adopting fifty as the number of senators, distributed upon the basis of taxable property, and one hundred and twenty as the number of the House of Commons, distributed upon the basis of Federal population, the

East would have a small majority in the Senate, and the West in the House. He insisted that while by this plan the result was satisfactory, at the time, it was also based upon a correct principle. Said he: "Make it right, so that it may last. Make it right, for the effect of it will be to obliterate those very sectional divisions which have heretofore prevailed." In conclusion, deprecating the dissensions which had divided the people and retarded progress, he said: Who but must wish that the disconnected fragments of the State may be brought together by those facilities of communication which will make her people and act as one people in interest and affection. Much, very much, may be done for the improvement of the State's physical condition. But there was another point of view in which he most earnestly desired the improvement of the State. If the only secure foundation of rational liberty be the virtue of the people, the best safeguard of that liberty is to be found in their intelligence. This alone could secure them against the wicked acts of oligarchs and demagogues. Not a little had lately been done in the cause of education; and he hailed with delight the institutions which were springing up in various parts of the country for the instruction of youth. But no efficient plans had yet been adopted for diffusing information throughout the land, and bringing it home to the poor and humble. If righteousness exalteth a nation, moral and religious culture should sustain and cherish it. It was in vain to hope that what ought to be done for the physical or intellectual and moral advancement of the State, could ever be accomplished, without the united efforts of the good and the wise, without liberal councils, and systematic co-operation. Many an anxious, many a painful hour, had he spent in reflecting on the divided and distracted state of his country. Earnestly had he wished that he might live to see the day when, instead of wasting their energies in sectional broils—instead of waging against each other a foolish and

wicked contest, in which victory was without glory, and defeat without consolation, they could, like a band of brothers, devote all their aspirations and all their efforts to their country's cause. He would not—he could not abandon the hope, that harmony and good will were about to be restored. He did hope that under this new order of things—under these favorable auspices, his beloved State was about to become all that her sons could wish her to be—that retaining the excellencies she now possessed—her love of liberty and order—her steady, kind, republican and industrious population—her simple and unobtrusive virtues, there might be added to her whatever was fitted to raise, and decorate, and ennoble her character.

Mr. McQueen, of Chatham, followed in a very able and patriotic speech, advocating the same views. After an enthusiastic discussion he concluded: “I am impressed with the belief that the meeting of this convention holds out a more sublime and beautiful spectacle than ever has been before presented to the moral or intellectual vision in North Carolina. And as I firmly believe that it will reveal brighter and more animating prospects than ever flushed Carolinians’ hearts with joy, my heart now swells with rapture at the imperfect glimpse which I have caught of the bright beams that have occasionally darted upon the consultations we have held for the benefit of our country. I think that when this convention surrenders its powers at the feet of those who gave it, we will perceive the morning sun of a brighter day beaming in the firmament of our prosperity.”

The motion to strike out 120 members was defeated by a vote of 76 to 52. The affirmative vote came entirely from the eastern counties. Among the eastern delegates voting in the negative were Bonner and Tayloe, of Beaufort, Arrington of Nash, Faison and Meares of Sampson, Macon and Ed-

wards of Warren, Gaston and Spaight of Craven, Holmes and Marsteller of New Hanover, Ruffin and Williams of Franklin, Toomer and McDiarmid of Cumberland, Williams and Joyner of Pitt. The number of representatives fixed upon at that time has never been changed. The center of population has moved far westward, and the present indications are that it will continue to do so, but happily the conflict between the sections is now confined to friendly contests for office.

It is an interesting problem for the student of North Carolina to forecast the basis of political power in 1935. With the negro eliminated, as a political factor, and the industrial growth of the Piedmont and West, it may safely be assumed that a convention in 1935 would present a very different line of division from that of 1835. The number of senators and representatives will hardly be interfered with unless, as is not probable, the present number of counties is increased to more than one hundred and twenty.

The proposed amendments providing for biennial sessions of the General Assembly, and the election of the Governor biennially by the people alarmed Mr. Macon, and he strongly opposed them. He said, "Democracy is dead in North Carolina"; predicted all manner of tyranny, and the destruction of popular rights. He quoted Mr. Jefferson as saying, "Where annual elections end, tyranny begins." He offered as a safe analogy the custom of a good farmer who, he said, always hired his overseer for one year. Judge Daniel quietly observed that he had lately seen a gentleman from Tennessee, where they elected the governor by the people, who told him that "candidates were traveling through the State on an electioneering campaign at expense and trouble to themselves and great annoyance to the people." Mr. Macon expressed the opinion that "this was a talking government," and he apprehended that the proposed change would destroy this safeguard of liberty.

The convention did not share the fears of their venerable president, and adopted both amendments. Time has justified their wisdom. Certainly our liberties are in no danger from the change.

The convention next entered upon a long and in many respects an able and interesting discussion on the proposition to amend the 32d Article of the Constitution. This Article provided: "That no person who shall deny the being of God, or the truth of the Protestant religion, or the Divine authority either of the Old or New Testament * * * shall be capable of holding any office of trust or profit in the civil department of the State." The only proposition seriously discussed, although several others were considered and voted upon, was whether the word "Protestant" should be stricken out and the word "Christian" inserted; and it is difficult at this day to understand how so able a body of men could have spent so much time and taken so wide a range of debate on such a simple proposition. For many years different opinions had been held in the State whether the Article, as it stood, excluded Roman Catholics from holding office, but the question had never been brought to a practical test. Judge Gaston had been elected to the Legislature a number of times, and two years prior to the meeting of the convention had been elected by a practically unanimous vote of the General Assembly a justice of the Supreme Court, and commissioned by Governor Swain, without any question other than the expression of private opinions. He was on the bench at the time of the convention.

The debate indicated a wide range of opinion in regard to whether any, and if any, what religious test should be applied. The objections to any change were based upon a number of reasons. Some thought that to admit Roman Catholics would meet with much opposition from the people. Mr. Smith of Orange thought that in some indefinite way he was

instructed "by his constituents not to remove the test." It is quite interesting to note how, by unanswerable facts and arguments his difficulty was removed, but his mind and conscience not satisfied.

Mr. Macon said that so far as he was individually concerned it mattered not what provisions were incorporated in the Constitution. His time had nearly come. But this article was the only feature in the old Constitution which he had ever heard objected to outside of the State; and the objection was always coupled with an expression of surprise that it could have got a foothold in a State where the principles of liberty were so well understood. There were times when a man must stake himself for the good of his country. The present was a crisis of this kind. To him it appeared too plain a question to argue that every man may worship God according to the dictates of his own conscience. But it is a practical denial of its truth to debar a man from office because he may entertain certain religious opinions. You might as well attempt to bind the air we breathe, as a man's conscience—it is free—liberty of thought is his inalienable birth-right. Referring to Judge Gaston, Mr. Macon said: "There was one member of this Convention whose father had been inhumanly murdered by the Tories in our Revolutionary struggle—he begged pardon for the allusion, but it was history—and shall it be said that his son, baptized, as it were, in the blood of his father, is unworthy a seat in the Legislature of our country?"

As one of the many instances in which men have used language, in making constitutions and laws, capable of many different constructions, numerous and widely divergent views were expressed in respect to the purpose and meaning of the Constitution. Some thought that it was intended to exclude Roman Catholics—some that it had no reference to persons of that faith and was not intended to exclude them, while

others insisted that by reason of the uncertainty of its meaning it was incapable of enforcement.

Judge Gaston, the only member of the Convention to whom it could be supposed the article had any personal application, discussed the subject in all of its aspects in the last, and probably the greatest speech made by him in any deliberative body. While expressing his views strongly, and explaining the circumstances upon which he went upon the bench, he said: "But as an individual I beg it to be understood, that I am utterly indifferent as to the determination of the Convention and of the people, except a desire that the consitutional provision be made explicit. If it be thought essential to the State that a monopoly of offices be secured to certain favored religious sects, let it be so disclosed. He who now addresses you will not feel a moment's pain, should such a decision render it his duty to return to private life. Office sought him—he sought not office. An experience of its cares, its labors and its responsibilities has not tended to increase his attachment to it."

Mr. Smith said that he wished this section to be laid aside as sleeping thunder, to be called up only when necessary to defeat some deep-laid scheme of ambition.

Mr. Swain disliked to keep the "sleeping thunder" of this section, as the gentleman from Orange termed it, to be used in some emergency hereafter. He did not like to leave it in the hands of men in power, who might hereafter abuse it by

"Dealing damnation round the land,
On all they deemed their foe."

After rejecting a number of proposed amendments, the Convention, by a vote of 74 to 52, struck out the word "Protestant" and inserted the word "Christian." The negative vote included a number of delegates who were opposed to retaining any religious test. Upon the final test the Convention by a vote of 76 to 32 refused to strike out the word "Christian," Gaston voting with the majority.

Upon the question of submitting the amendments to the people, Mr. Macon said that he could not give them his approval as he had two decided objections to them—the one was the doing away with annual elections, which he considered a fundamental principle of Republican liberty; the other was the change made in the election of Governor. He was sorry that he could not concur in approving the work of a body of men from whom he had received uniform kindness and attention.

The vote on this question stood 81 to 20, the latter being generally from the East.

The closing scenes of the Convention were peculiarly interesting. Judge Gaston, Governor Swain being in the chair, offered a resolution “respectfully tendering thanks to the Honorable Nathaniel Macon, their venerable President, for the distinguished ability, dignity and impartiality with which he has discharged the duties of his station.” Mr. Macon, after returning his thanks for “all your kindness,” said: “This I expect will be the last scene of my public life. We are about to separate; and it is my fervent prayer that you may, each of you, reach home in safety, and have a happy meeting with your family and friends, and that your days may be long, honorable and happy. While my life is spared, if any of you should pass through the county in which I live, I shall be glad to see you.”⁵

“On the President’s resuming his seat and the applauses of the Convention having ceased,” according to the Journal, “Mr. Carson, of Burke, arose and said that he was about to leave old North Carolina to reside in the far West, where he should be happy at all times to see any friend from the old State—to be a North Carolinian, would be sufficient recom-

⁵ Mr. Macon’s prophecy was not fulfilled. He was an Elector on the Van Buren ticket of 1836, and presided over the Electoral College. He died, June 29, 1837.

mendation—his house and corn crib should be at the service of his friends.”

Judge Gaston, from the Committee on Enrollment, reported that the Amendments to the Constitution correctly enrolled on parchment had received the signature of the President and Secretary. After Reverend Dr. McPheeters had offered prayer, the President announced that the business was finished, and on motion of Judge Gaston the Convention stood adjourned.

The amendments were ratified by a vote of 26,771 for, and 21,606 against, the majority being 5,165.

The votes in the following counties are of interest:

Burke, for the amendments,	1,359 ; against,	1
Buncombe, “	1,322 “	22
Iredell, “	1,184 “	18
Lincoln, “	1,887 “	42
Rutherfordton, “	1,557 “	8
Rowan, “	1,570 “	18
Wilkes, “	1,757 “	8
Edgecombe, “	29 “	1,334
Brunswick, “	0 “	466
Tyrrell, “	1 “	459
Washington, “	14 “	409
Martin, “	14 “	795
Hyde, “	2 “	431
Warren, “	46 “	580
Craven, “	131 “	270
Wake, “	243 “	1,124

This is a fair average of the vote of the eastern and western counties. They are interesting figures, and shed much light on the history of North Carolina. They also show that the Convention was called none too soon. The question which called the Convention into existence was that upon which the

line of division in the vote upon the amendments was formed, representation in the House of Commons based upon population. The other questions were of but little importance in the opinion of the people. Notwithstanding the apprehension of Mr. Smith in regard to the "instruction" given him, the county of Orange ratified all of the amendments by a vote of 1,131 to 246.

The limitations necessarily imposed upon the length of this paper render it impossible to refer to many interesting discussions in the Convention which exhibit a very high order of learning, eloquence and patriotism on the part of the delegates. They are worthy of and will repay study by any person interested in our history.

